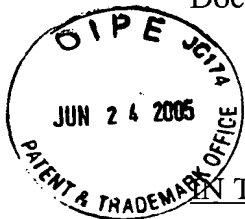


DAC [signature]

Docket No.: TER-01P0006



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applic. No. : 10/657,927 Confirmation No.: 5138
Inventor : Gerhard Zuch
Filed : September 9, 2003
Title : Guide Tube for an Instrumentation Lance Extending into a Pressure Vessel, Reactor Pressure Vessel, and a Method
TC/A.U. : 3641
Examiner : Jack W. Keith
Customer No.: 24131

TO BE HAND-DELIVERED TO THE PETITIONS OFFICE

PETITION FOR REJOINDER OF METHOD CLAIMS
UNDER 37 C.F.R. 1.182

Sir:

The facts leading to this petition are as follows:

On June 11, 2004, the Examiner issued an Office Action requesting a restriction between group I, claims 1-9 (product claims) and group II, claims 10-12 (method claims). The Examiner based the restriction requirement on MPEP §806.05(e). Applicant elected Group I, claims 1-9 without traversal.

Upon receiving the Notice of Allowance, applicant amended the withdrawn method claims with all the limitations of the allowable product claim and requested rejoinder under MPEP

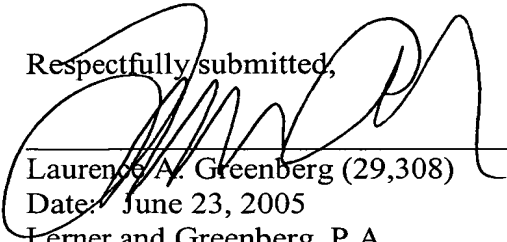
§821.04. The Examiner rejected the rejoinder request as MPEP §821.04 allows rejoinder of the method claims restricted under MPEP §806.05(f) or (h). In addition, the Examiner noted that there is no means clause in the apparatus claims, thus no linking claim is present.

Applicant's Attorney called the Examiner and it was agreed that the restriction requirement should have been under MPEP §806.05(h) and not MPEP §806.05(e). The Examiner stated that Applicant did not traverse or object to the restriction requirement under MPEP §806.05(e) at the time of the restriction requirement and therefore claims 10-12 could not be rejoined. The Examiner is correct that Applicant did not object to the restriction requirement. The Examiner did note that Applicant could add a means clause to the allowable product claim and the method claim in order to force rejoinder as required under MPEP §806.05(e). Applicant appreciates the Examiner's suggestion but believes this suggestion is not in his best interest and that the Examiner should have shown more flexibility and rejoined the withdrawn method claims as the restriction requirement was improperly based on MPEP §806.05(e). It is once again stressed that the error was initiated by the Patent Office and not caught by Applicant's Attorney.

In view of the foregoing, applicants respectfully request the rejoinder of the method claims 10-12. Applicant should not be prejudiced by a Patent Office error but instead the restriction requirement should now be changed to MPEP 806.05(f) or (h), noting that MPEP 821.04 requires rejoinder in such a case.

Please charge any fees which might be due with respect to Sections 1.16 and 1.17 to Deposit Account No. 12-1099 of Lerner and Greenberg, P.A..

Respectfully submitted,



Laurence A. Greenberg (29,308)

Date: June 23, 2005

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